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IN THE SUPREME COURT OF THE UNITED STATES

DON STENBERG,

Attorney General of the State of Nebraska, *et al.*,

Petitioners,

v.

LEROY CARHART,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

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BRIEF *AMICI CURIAE* OF SEVENTY-FIVE ORGANIZATIONS COMMITTED TO WOMEN'S EQUALITY IN SUPPORT OF RESPONDENT

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59 pp

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 1

ARGUMENT 3

I. LAWS BANNING SAFE ABORTION METHODS JEOPARDIZE WOMEN'S HEALTH AND WILL IMPEDE WOMEN'S ACCESS TO ABORTION 3

A. Medically Safe Abortion Has Protected Women's Health and Autonomy and Advanced Women's Economic and Social Status 3

B. The Nebraska Abortion Procedure Ban Imposes Substantial Obstacles to Safe, Pre-Viability Abortions 5

II. LAWS BANNING SAFE ABORTION METHODS DEPRIVE WOMEN OF LIBERTY AND EQUALITY 14

III. NO STATE INTEREST IN FETAL PROTECTION AND NO THEORY OF INDEPENDENT FETAL RIGHTS JUSTIFIES THE HARM INFLICTED ON WOMEN BY THE NEBRASKA ABORTION PROCEDURE BAN 20

CONCLUSION 27

APPENDIX: INDIVIDUAL STATEMENTS OF INTEREST OF *AMICI CURIAE* A-1

TABLE OF AUTHORITIES

Cases *Pages*

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Brief *Amici Curiae* of the National Abortion and Reproductive Rights Action League et al. 19

Brief *Amici Curiae* of the National Right to Life Committee et al. 12

Brief *Amicus Curiae* of the United States Catholic Conference et al. 24

Brief of *Amici* American Civil Liberties Union et al. 9

Brief of *Amici Curiae* U.S. Rep. Charles T. Canady et al. 24

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INTEREST OF *AMICI CURIAE*

Amici Curiae are seventy-five organizations committed to women's rights.[1] *Amici* share a belief that the ability to determine whether and when to bear a child is a central component of women's liberty and equality. This brief is submitted to demonstrate to the Court the ways in which denying women access to safe abortion methods jeopardizes their health, freedom, and equality and to show why statutes banning safe methods of pre-viability abortion unconstitutionally conflict with "the urgent claims of the woman to retain the ultimate control over her destiny and her body, claims implicit in the meaning of liberty." *Planned Parenthood v. Casey*, 505 U.S. 833, 869 (1992).

Individual statements of interest of the *amici* are contained in the Appendix to this brief. Letters from the parties consenting to the filing of this brief have been filed with the Clerk.

SUMMARY OF ARGUMENT

Access to safe and legal methods of abortion has protected women's health and advanced their liberty and equality. The Nebraska abortion procedure ban, *see* Neb. Rev. Stat. § 28-326(9), which criminalizes a wide range of safe abortion procedures including the safest and most common second-trimester procedures, seriously jeopardizes women's health and will deny some women access to abortion altogether. The statute forces women to choose alternative methods of abortion that expose them to unnecessary medical risks. Confronting a highly time-sensitive medical procedure, women subject to the Nebraska ban either must find a physician who will perform an abortion using a less common and less safe method or they

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[1] Counsel for a party did not author this brief in whole or in part. No person or entity, other than the *amici curiae*, their members, or counsel, made a monetary contribution to the preparation or submission of this brief.

must travel to a jurisdiction without a procedure ban. For some women, these hurdles will be insurmountable, precluding access to an abortion altogether.

The Nebraska procedure ban will harm any woman subject to it, but its impact will be harshest on the most vulnerable women. In particular, women who seek the second-trimester procedures encompassed within the statutory ban are likely to be those women who have been unable to obtain earlier abortions because they suffer under special burdens such as poverty, health problems, domestic violence, or youth. A substantial number of these particularly vulnerable women will lose access to abortion altogether.

A criminal statute banning *any* medically safe method of abortion unduly infringes upon women's rights even if drawn more narrowly than the Nebraska statute at issue in this case. There will always be women for whom the banned procedure is safest and best. Most importantly, if a state can ban one safe abortion method, it is likely to ban others. As procedures are eliminated, abortion by any method will become increasingly unavailable. Upholding the Nebraska statute will thereby permit opponents of women's reproductive liberty to accomplish piecemeal what pre-*Roe* statutes accomplished outright.

In addition to violating women's privacy rights, statutes banning safe abortion procedures inescapably implicate the Constitution's promise of liberty and equality. For women, full-term pregnancy and childbirth result in tremendous bodily intrusions and significant physical risks and pain. As the Court has recognized, compelled childbirth and motherhood limit women's life choices and burden the participation of women as equals in society. To force women to make these sacrifices against their will violates their bodily integrity, deprives them of autonomous control of their lives, disadvantages them economically, and imposes upon them burdens that have no parallel for men.

Furthermore, the fetal rights theories advanced in support of Nebraska's ban do not justify the harm the ban inflicts on women. Criminalizing safe abortion procedures out of

concern for the fetus subordinates women's health to fetal interests and could lead to nightmarish state interference with the liberty of pregnant women. The notion advanced by Petitioners and their *amici* that nonviable fetuses accrue constitutionally protectible "locational" rights as the result of being aborted finds no support in law or reason and expresses profound disrespect for the bodily integrity of the whole woman. For these reasons, the Nebraska abortion ban is unconstitutional, and the judgment of the United States Court of Appeals for the Eighth Circuit should be affirmed.

ARGUMENT

I. LAWS BANNING SAFE ABORTION METHODS JEOPARDIZE WOMEN'S HEALTH AND WILL IMPEDE WOMEN'S ACCESS TO ABORTION.

A. Medically Safe Abortion Has Protected Women's Health and Autonomy and Advanced Women's Economic and Social Status.

As this Court noted only eight years ago, medically safe abortion has been critically important to women's lives. *See Casey*, 505 U.S. at 856. It has improved women's health dramatically, both by reducing injuries and deaths inflicted by non-medical or self-induced procedures[2] and by saving women from the devastation of uncontrolled childbearing. As a consequence, women's general health has benefited. *See* Gerald N. Rosenberg, *The Hollow Hope* 355 (1991) (stating that legalized abortion has removed "serious health hazards" for women).

The legalization of abortion has permitted women to participate more fully in society. Since abortion was legalized, women have made unprecedented strides in

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[2] Between 1973, the year *Roe v. Wade*, 410 U.S. 113 (1973), was decided, and 1985, women's rate of death from abortion fell more than eight times, from 3.4 deaths per 100,000 in 1973 to 0.4 deaths per 100,000 in 1985. Rachel B. Gold, Alan Guttmacher Institute, *Abortion and Women's Health: A Turning Point for America?* 28 (1990).

employment and education[3] as they have gained a significantly greater capacity to make personal choices outside of the traditional maternal role and attained positions of leadership in every field of endeavor. It is not coincidental that women's entry in large numbers into occupations previously held exclusively by men came on the heels of this Court's recognition of the right to reproductive privacy: these advances would have been impossible if women had not had the ability to time and limit their childbearing. In Justice Blackmun's words,

> [b]ecause motherhood has a dramatic impact on a woman's educational prospects, employment opportunities, and self-determination, restrictive abortion laws deprive her of basic control over her life.

Casey, 505 U.S. at 928 (Blackmun, J., concurring in part and dissenting in part).

Even more fundamentally, the availability of safe and legal abortion has made it possible for a woman to take "autonomous charge of her full life's course." Ruth Bader Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to* Roe v. Wade, 63 N.C. L. Rev. 375, 383 (1985). Indeed, "[a]n entire generation has come of age free to assume *Roe*'s concept of liberty in defining the capacity of women to act in society, and to make reproductive decisions." *Casey*, 505 U.S. at 860. As the *Casey* Court

[3] There has been a substantial increase in women's representation in the labor force and a diminution in the persistent wage gap between men and women. *See* Women's Bureau, U.S. Dep't of Labor, *20 Facts on Women Workers* (last modified Mar. 2000) <www.dol.gov/dol/wb/public/wb_pubs/20fact00.htm> (documenting significant increases in the proportion of women in the labor force between 1900 and 1990 and noting that women are expected to constitute 48% of the labor force by 2005); Economic Policy Institute, *Workforce Diversity Increases* (visited Mar. 24, 2000) <www.epinet.org/webfeatures/snapshots/archive/071499/shapshots071499.html>; *see also* Victor R. Fuchs, *Women's Quest for Economic Equality*, 3 J. Econ. Persp. 36-37 (1989); *Women's Work, Men's Work: Sex Segregation on the Job* 23-24 (Barbara F. Reskin & Heidi I. Hartmann eds., 1986).

explained, reproductive decisions are among the most important decisions any person can make:

> These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

Id. at 851; *see also id.* at 916 (Stevens, J., concurring in part and dissenting in part) ("The authority to make such traumatic and yet empowering decisions is an element of basic human dignity. . . . [A] woman's decision to terminate her pregnancy is nothing less than a matter of conscience."). The denial of the abortion right is a denial of the most fundamental liberty, akin to the denial of women's personhood.

B. The Nebraska Abortion Procedure Ban Imposes Substantial Obstacles to Safe, Pre-Viability Abortions.

The Nebraska abortion ban will unravel much of the progress women attained in the post-*Roe* era, particularly for women who are seeking any of several accepted and commonly performed abortion procedures. As the United States Court of Appeals for the Eighth Circuit held, the Nebraska statute criminalizes the performance of the dilation and evacuation (D&E) procedure, as well as a variant of it, the dilation and extraction (D&X) procedure—the safest and most common methods of abortion in the second trimester.[4]

[4] Neither the district court nor the Court of Appeals reached the question of whether the statute bans some first-trimester suction curettage procedures as well as most second-trimester procedures. *See Carhart v. Stenberg*, 192 F.3d 1142, 1145 (8th Cir. 1999) (finding ban unconstitutional because it prohibits the most common second-trimester procedure); *Carhart v. Stenberg*, 11 F. Supp. 2d 1099, 1130 n.44 (D. Neb. 1998) (declining to reach whether statute affects suction curettage). Nor did the courts below determine whether the statute bans second-

Carhart v. Stenberg, 192 F.3d 1142, 1145 (8th Cir. 1999). The Nebraska law thus places a significant impediment in women's path by increasing the delay, expense, and physical risk they must endure in order to obtain an abortion. Either they must find the means to travel to a jurisdiction that does not have such restrictions and attempt to find a provider there in time to have an abortion,[5] or they must find an in-state

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trimester induction procedures. The statute's plain language and the record evidence would support such findings. *See* Brief *Amici Curiae* of the American College of Obstetricians & Gynecologists et al. at Part I.B.1. n.23 [hereinafter Br. ACOG]. Indeed, courts in other jurisdictions considering similar statutes have found that these procedures are also swept up by such bans. *See Planned Parenthood v. Miller*, 30 F. Supp. 2d 1157, 1165-67 (S.D. Iowa 1998) (suction curettage), *aff'd*, 195 F.3d 386 (8th Cir. 1999); *Planned Parenthood v. Verniero*, 41 F. Supp. 2d 478, 493 (D.N.J. 1998) (suction curettage and induction), *appeal argued*, No. 99-5042 (3d Cir. Nov. 19, 1999); *A Choice for Women v. Butterworth*, 54 F. Supp. 2d 1148, 1155-56 (S.D. Fla. 1998) (induction); *Little Rock Fam. Plan. Servs. v. Jegley*, No. LR-C-97-581 (E.D. Ark. Nov. 13, 1998) (same), *aff'd*, 192 F.3d 794 (8th Cir. 1999); *Planned Parenthood v. Alaska*, No. 3AN-97-6019 CIV, slip op. at 17 (Alaska Super. Ct. Mar. 13, 1998) (suction curettage); *Planned Parenthood v. Woods*, 982 F. Supp. 1369, 1378 (D. Ariz. 1997) (induction). That Nebraska's ban may reach some first-trimester abortions and all but the most dangerous and invasive second-trimester procedures renders it even more egregious. The Court need not reach this issue, however, because a ban on D&E and D&X procedures is itself unconstitutional. *See* Br. ACOG, *supra*, at Part II.

[5] Several district courts that have considered abortion procedure bans have found that travel presents a serious obstacle to women who need an abortion. *See, e.g., Rhode Island Med. Soc'y v. Whitehouse*, 66 F. Supp. 2d 288, 314 (D.R.I. 1999) (finding that ban constitutes an undue burden because it would force women to travel to providers in other states, resulting in increased delay and danger for women), *appeal stayed*, No. 99-2095 (1st Cir. Nov. 22, 1999); *Richmond Med. Ctr. for Women v. Gilmore*, 11 F. Supp. 2d 795, 809-10 (E.D. Va. 1998) (in finding that abortion ban would force women to suffer irreparable harm, recounting doctor's testimony about patients who would have to go out of state to seek care and would be subject to greater risk because of delay), *stay granted on other grounds*, 144 F.3d 326 (4th Cir. 1998); *Summit Med. Assocs. v. James*, 984 F. Supp. 1404, 1417 (M.D. Ala. 1998) (finding that ban would require travel out of state which would increase delay and cost, resulting in an increased risk to the woman and the possibility of

provider who uses a less common and less safe abortion method that remains legal.

Women with the ability to leave the state will face a separate set of hurdles in locating a provider. Despite projections that 43% of American women will have at least one abortion during their childbearing years,[6] in Nebraska and throughout the United States, there is a well-documented shortage of abortion providers.[7] The provider shortage is directly related to the climate of violence and stigma created by opponents of the procedure.[8] Like Dr. Carhart himself,[9]

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completely losing access to abortion), *aff'd in part and rev'd in part on other grounds*, 180 F.3d 1326 (11th Cir. 1999), *cert. denied*, 68 U.S.L.W. 3565 (U.S. Mar. 6, 2000); *Woods*, 982 F. Supp. at 1373 ("If second-trimester abortions were not available in Tucson, many of the patients of Kino Hospital would not be able to obtain a second-trimester abortion because they do not have the means to travel outside of Arizona.").

[6] *See* Stanley K. Henshaw, *Unintended Pregnancy in the United States*, 30 Fam. Plan. Persp. 24, 29 (1998).

[7] Dr. Carhart is the only doctor in Nebraska who performs abortions past sixteen weeks' gestation. *Carhart*, 11 F. Supp. 2d at 1102. Nor is Nebraska an unusual case. Only 14% of counties in the United States have any abortion provider at all. *See* Stanley K. Henshaw, *Abortion Incidence and Services in the United States, 1995-1996*, 30 Fam. Plan. Persp. 263 (1998). The percentage of abortion providers who offer second-trimester procedures diminishes rapidly with every passing week of gestation: 48% of providers offer abortion services at thirteen weeks of gestation but only 13% offer abortions at twenty-one weeks. *See* Stanley K. Henshaw, *Factors Hindering Access to Abortion Services*, 27 Fam. Plan. Persp. 54 (1995).

[8] *See* U.S. General Accounting Office, Report to the Ranking Member, Subcommittee on Crime, Committee on the Judiciary, House of Representatives, *Abortion Clinics: Information on the Effectiveness of the Freedom of Access to Clinic Entrances Act* 2 (Nov. 1998) (describing climate of increasing violence directed at reproductive health care providers); National Abortion Federation, *Incidents of Violence and Disruption Against Abortion Providers* (last modified Nov. 1999) <www.prochoice.org/violence/99vd.html> (annual statistics on murders, attempted murders, arsons, bombings, and chemical attacks against abortion providers).

[9] Dr. Carhart was the victim of anti-choice violence in 1991 when his family's home and barn were burned to the ground. *See* Tamra

providers of second-trimester procedures are typically targets of the most extreme and dangerous anti-choice violence and terrorism.[10] Accordingly, even women with the means to travel to states without procedure bans will face difficulties in quickly finding a provider of second-trimester procedures.

Women who are unable to travel out of state may well find their access to any method of abortion foreclosed as a result of the ban. A sweeping criminal statute prohibiting virtually all second-trimester procedures is likely to deter physicians from offering any second-trimester procedures and may drive still greater numbers of providers out of practice. *See* David A. Grimes, *Clinicians Who Provide Abortions*, 80 Obstetrics & Gynecology 719, 721 (1992) (noting that "[h]arassment and intimidation may dissuade skilled clinicians from entering this field, or convince them to quit"). Thus, for women who cannot travel to obtain the required procedure due to financial constraints or medical complications, Nebraska's ban will effectively eliminate their ability to have a safe abortion by shrinking the already constricted pool of available providers. Some of these women will be reduced to attempting illegal or self-induced procedures or will be forced to carry the pregnancy to term. That is precisely the "choice" that *Roe* forbids.

The few women who may succeed in finding a provider in Nebraska will face unnecessary health risks from less safe procedures.[11] Over the past twenty-five years, D&E

Fitzpatrick, *Abortion-Rights Supporters Lament Decline in Clinics*, Dallas Morning News, Oct. 4, 1997, at 43A.

[10] *See, e.g.*, *Nuremberg Files: Abortionists on Trial* (visited Mar. 24, 2000) <www.geocities.com/CapitolHill/Parliament/1735/aborts.html>.

[11] In blatant disregard of this Court's command, *see Casey*, 505 U.S. at 846 (requiring even post-viability abortion restrictions to contain a health exception), the Nebraska ban has no provision making an exception for the health or safety of the pregnant woman. Chief Judge Richard Posner of the United States Court of Appeals for the Seventh Circuit expressed his dismay at a similar flaw in statutes enacted by Illinois and Wisconsin: "It is incomprehensible to me why these states, if acting in good faith, were unwilling to write the same health exception into statutes that criminalize the abortion of nonviable as well as viable fetuses." *Hope Clinic v. Doyle*, 195 F.3d 857, 879 (7th Cir. 1999) (Posner, C.J., dissenting), *petition for cert. filed*, U.S.L.W. daily ed. Jan. 20, 2000 (U.S. Jan. 10, 2000) (No. 99-1152). In addition, although the Nebraska ban contains a narrow exception for women whose lives are endangered, *see* Neb. Rev. Stat. § 28-328(1), that part of the statute is also constitutionally deficient. *See* Brief of *Amici* American Civil Liberties Union et al. at Part II; Br. ACOG, *supra* note 4, at Part IV.

abortions have all but replaced previously common induction procedures.[12] The Centers for Disease Control and Prevention attribute the greater reliance on D&E procedures to their lower risk of complications. *See* Centers for Disease Control & Prevention, *Abortion Surveillance–United States, 1996*, 48 Morbidity & Mortality Wkly. Rep. (No. SS-4) 8 (1999) [hereinafter *Abortion Surveillance*]; *see also* Brief *Amici Curiae* of the American College of Obstetricians & Gynecologists et al. at Part II.B.1. [hereinafter Br. ACOG] (discussing relative safety of abortion methods).

This Court has consistently invalidated statutes requiring pregnant women to place their own health at risk for the sake of the fetus, even when the fetus is viable. *See Casey*, 505 U.S. at 846; *Thornburgh v. American College of Obstetricians & Gynecologists*, 476 U.S. 747, 768-69 (1986), *overruled in part on other grounds by Casey*, 505 U.S. at 881-84; *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 79 (1975); *Roe v. Wade*, 410 U.S. 113, 164-65 (1973). In this case, fetal survival is not at issue because of the immaturity of the fetus before the twentieth week of pregnancy. Surely, if the state's interest in viable fetal life is insufficient to require a woman to sacrifice her health, the state cannot exact that sacrifice for less. Yet the Nebraska state demands just that.

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[12] From 1974 to 1996, the percentage of second-trimester abortions performed by D&E increased from 31% to 93%, and the percentage of second-trimester abortions performed by intrauterine saline or prostaglandin instillation declined sharply, from 57% to 2%. *See* Centers for Disease Control & Prevention, *Abortion Surveillance–United States, 1996*, 48 Morbidity & Mortality Wkly. Rep. (No. SS-4) 8 (1999). Similarly, the percentage of hysterectomy and hysterotomy abortions declined from 10% to 0.4% and from 0.6% to less than 0.01%, respectively. *See id.*

Furthermore, the weight of the Nebraska ban will fall most heavily on precisely those women least able to bear it: disadvantaged women who are already encumbered by circumstances making it difficult to obtain an abortion promptly. Only a small percentage of abortions take place in the second trimester. *See Abortion Surveillance*, *supra*, at 5 (finding that 88% percent of abortions are obtained in first trimester and only 10% in the second trimester). A mere 4% of abortions are obtained at sixteen to twenty weeks, the period of gestation during which Dr. Carhart performs most of his D&X abortions. *See Carhart v. Stenberg*, 11 F. Supp. 2d 1099, 1105 (D. Neb. 1998). Women who obtain abortions after the very earliest stages of pregnancy typically face special circumstances or difficulties that delay them. For example, in some cases, fetal abnormalities are discovered through testing undertaken in the second trimester. In other cases, socioeconomic factors play a significant role in delaying the abortion into the second trimester. These factors include: poverty, which prevents low-income women from raising the money quickly enough to pay for an earlier procedure;[13] domestic violence, because abusers often deter their victims from getting an earlier abortion;[14] unawareness

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[13] First-trimester abortions cost roughly $300. Henshaw, *Factors Hindering Access*, *supra* note 7. Second-trimester procedures are even more expensive. In 1995-96, non-hospital facilities charged on average $604 for an abortion at sixteen weeks of gestation and $1,067 at twenty weeks. *Id.* That cost well exceeds the entire maximum monthly welfare allowance for a family of three. *See* Comm. on Ways & Means, U.S. House of Reps., *1998 Green Book* 415-17 (1998) (in 1997, median maximum grant was $377; Nebraska maximum grant was $364). Moreover, Nebraska does not fund abortions for low-income women, although the state's refusal to provide Medicaid funding for abortions for rape and incest survivors has been held to violate the Hyde Amendment. *See Orr v. Nelson*, 902 F. Supp. 1019, 1019 (D. Neb. 1994), *aff'd*, 68 F.3d 479 (8th Cir. 1995). Poor women in Nebraska hence face the daunting task of raising a considerable sum of money quickly, and the sum they must raise compounds with each week of delay.

[14] *See Carhart*, 11 F. Supp. 2d at 1113 (testimony of Dr. Stubblefield that "women who are finally deciding to leave their abusive spouse" are among those likely to get second-trimester abortions); *see also* Susan S. Glander et al., *The Prevalence of Domestic Violence Among Women*

of pregnancy that can often stem from youth;[15] an unforeseeable change in circumstances such as a health problem[16] or desertion by a spouse or partner[17] that occurs only after several months of pregnancy; and inability to locate or access a provider.[18] Race is also correlated with post-first-trimester procedures:[19] Black women are 2.8 times more likely to obtain a second-trimester abortion than are white women. *Abortion Surveillance*, *supra*, at 7.

In addition, the cumulative effect of the barrage of abortion restrictions adopted by most of the states in the post-*Casey* era has been to delay non-emergency abortions, often

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Seeking Abortion, 91 Obstetrics & Gynecology 1002, 1003 (1998) (finding that 39.5% of women seeking abortion self-reported a history of abuse); G. Evins & N. Chescheir, *Prevalence of Domestic Violence Among Women Seeking Abortion Services*, 6 Women's Health Iss. 204 (1996) (noting that 22% of women seeking abortion identified history of abuse within the past calendar year). As this Court noted in *Casey*, a significant number of women seeking abortions are domestic violence victims. *See Casey*, 505 U.S. at 893 (discussing relationship between abortion and domestic violence); *id.* at 888-92 (recounting trial court's record about domestic violence).

[15] More than one-third of all abortions after twelve weeks are obtained by teenagers. National Abortion Federation, *Abortion After Twelve Weeks* (visited Mar. 25, 2000) <www.prochoice.org/facts/after12w.htm>; *see also Carhart*, 11 F. Supp. 2d at 1113 (setting forth testimony of Dr. Stubblefield that youth is one of many factors delaying abortions into second trimester).

[16] "Women having an abortion later in pregnancy were also more likely to report personal health problems [or] possible fetal health problems . . . ." Janet E. Gans Epner et al., *Late-Term Abortion*, 280 JAMA 724, 725 (1998); *see also Carhart*, 11 F. Supp. 2d at 1113 (recounting testimony of Dr. Stubblefield that health complications are a factor leading to second-trimester abortions).

[17] Henshaw, *Unintended Pregnancy*, *supra* note 6, at 25 (initially desired pregnancies are sometimes terminated for reasons including loss of partner or lack of support).

[18] *See* discussion *supra* notes 5 & 7.

[19] This result is related to the higher rates of poverty among Black women, who are five times more likely to live in poverty than are white women. Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* 111 (1997).

substantially. *See* Stanley K. Henshaw, *Factors Hindering Access to Abortion Services*, 27 Fam. Plan. Persp. 54 (1995) (discussing impact of state waiting periods, physician-only counseling requirements, parental notification and consent laws, and public funding restrictions on access to abortion); *see also* Ted Joyce & Robert Kaestner, *The Impact of Mississippi's Mandatory Delay Law on the Timing of Abortion*, 32 Fam. Plan. Persp. 4, 7 (2000) (finding that, following implementation of mandatory delay law, proportion of second-trimester abortions in Mississippi increased by 53% among women whose closest provider was in-state). With existing restrictions delaying women into the second trimester, abortion procedure bans such as Nebraska's close off second-trimester options and thus result in the practical elimination of the right to abortion. Because the loss of access to legal abortion will most directly affect the most vulnerable women, this Court should look particularly searchingly at the statute in question. The Nebraska statute is more than a "particular burden" unfairly targeting disadvantaged women, *see Casey*, 505 U.S. at 887. For women unable to obtain early abortions, the ban will amount to a substantial obstacle by sharply decreasing their access to second-trimester procedures and providers.

Nor does the fact that some women will continue to have access to safe abortion methods render the Nebraska ban constitutional. *Amicus Curiae* National Right to Life Committee argues that the Nebraska ban is not an undue burden because it would prevent no more than 1/19th to 2/19ths of Dr. Carhart's patients from getting a D&X procedure. *See* Brief *Amici Curiae* of the National Right to Life Committee et al. at 24. In addition to leaving out of this equation the D&E procedures that the statute also criminalizes, this "rights-by-numbers" approach was firmly repudiated by *Casey*:

> The analysis does not end with the one percent of women upon whom the statute operates; it begins there. Legislation is measured for consistency with the Constitution by its impact on those whose conduct it affects. . . . The proper focus of constitutional inquiry is the group for whom the law is a restriction, not the group for whom the law is irrelevant.

Casey, 505 U.S. at 894 (striking down husband notification provision affecting 1% of Pennsylvania women seeking abortions). Here, for many of the women who need D&E or D&X abortions during the stage in pregnancy at which these banned methods are commonly used, the Nebraska statute will function as an absolute obstacle. *Roe* and *Casey* permit no such result.

Even if the Nebraska ban could be narrowed to reach only D&X abortions,[20] it would still impermissibly harm women. There are some women for whom the D&X procedure is best for safety and other health-related reasons. *See Carhart*, 11 F. Supp. 2d at 1126; Br. ACOG, *supra*, at Part II.B.1. (discussing health benefits of D&X abortions, including accurate diagnosis of fetal anomalies and opportunity for grieving pregnancy loss). For these women, a judicially narrowed statute would not cure the constitutional defect: rather, it would remain an undue burden on their right to abortion by denying them the procedure that is most medically advisable for them. In the constantly evolving practice of obstetrical medicine, the Nebraska ban will also foreclose the refinement of new techniques needed to develop safer procedures for the future, thus unduly burdening all women's right to the development of the safest abortion procedures. *See id.* at Part III. In any event, criminalizing procedures that closely resemble other common procedures will chill the performance of the other procedures as well.[21]

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[20] It is improper for the Court to rewrite state statutes by inserting words to save their constitutionality. *See Reno v. American Civil Liberties Union*, 521 U.S. 844, 884-85 (1997); *Marchetti v. United States*, 390 U.S. 39, 60 n.18 (1968).

[21] Indeed, that is the purpose of the ban, and that improper purpose dooms the statute to unconstitutionality under the purpose prong of the undue burden test. *See* Brief *Amici Curiae* of the National Abortion and Reproductive Rights Action League et al. at Part II.

More importantly, if states can go so far as to criminalize safe methods of pre-viability abortion to show concern for fetuses, states may very well attempt to enact successive bans on other safe abortion methods. Indeed, one of the only remaining second-trimester abortion methods, intrauterine saline instillation, has been the target of a statutory ban in the past. *See Danforth*, 428 U.S. at 75-76.[22] Surely, *Roe* and *Casey* do not stand for the proposition that as long as one safe abortion procedure is legal, all others may be banned.

II. LAWS BANNING SAFE ABORTION METHODS DEPRIVE WOMEN OF LIBERTY AND EQUALITY.

Pregnancy, childbirth, and motherhood demand of women extraordinary physical, psychological, and financial commitments. Because maternity is so consuming, a woman's liberty is acutely impaired when she is forced into it:

> The mother who carries a child to full term is subject to anxieties, to physical constraints, to pain that only she must bear. That these sacrifices have from the beginning of the human race been endured by woman with a pride that ennobles her in the eyes of others and gives to the infant a bond of love cannot alone be grounds for the State to insist that she make the sacrifice.

Casey, 505 U.S. at 852. Indeed, the *Casey* Court observed that, with pregnancy, "the liberty of the woman is at stake in a sense unique to the human condition and so unique to the law." *Id.*

Unwanted pregnancies and ill-timed childbearing heavily burden the participation of women as equals in society. *See* Sylvia A. Law, *Rethinking Sex and the Constitution*, 132 U. Pa. L. Rev. 955 (1984) (describing physical, economic, and social burdens). The Nebraska ban, by prohibiting the safest abortion methods and impeding access to providers, will

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[22] As discussed *supra* note 4, the vagueness of the statutory language leaves unclear whether the saline induction method is always or sometimes criminalized by the Nebraska ban.

compel some women to bear children against their will, curtailing their ability to choose a different role and in this way depriving them of the choices and opportunities available to men. As this Court noted in *Casey*,

> [f]or two decades of economic and social developments, people have organized intimate relationships and made choices that define their views of themselves and their places in society, in reliance on the availability of abortion in the event that contraception should fail. The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.

Casey, 505 U.S. at 856.

Not only do such laws deprive women of the autonomy necessary for their liberty and equal participation in society, but requiring women to make these sacrifices for the sake of others imposes a duty on women that has no parallel for men. This Court repeatedly has held unconstitutional federal and state laws that "den[y] women, simply because they are women, full citizenship stature–equal opportunity to aspire, achieve, participate in and contribute to society . . . ." *United States v. Virginia*, 518 U.S. 515, 532 (1996) (citing *Kirchberg v. Feenstra*, 450 U.S. 455, 462-63 (1981), and *Stanton v. Stanton*, 421 U.S. 7 (1975)).

That it is women alone at whom restrictions on abortion are directed and that women alone bear the burdens and disadvantages of coerced pregnancy and childbirth has led commentators to explore the implications of abortion restrictions for women's equality under a number of constitutional theories. *See* Ginsburg, *Some Thoughts on Autonomy and Equality*, *supra*, at 382-83; Law, *Rethinking Sex*, *supra*; Laurence H. Tribe, *American Constitutional Law* § 15-10, at 1353 (2d ed. 1988); Reva Siegal, *Reasoning From the Body: A Historical Perspective on Abortion Regulation and Questions of Equal Protection*, 44 Stan. L. Rev. 261 (1992); David A. Strauss & Cass R. Sunstein, Brief *Amicus Curiae* National Coalition Against Domestic Violence Supporting Appellees, *Webster v. Reproductive Health Services*, *reprinted in* 11 Women's Rts. L. Rep. 281 (1989).

As discussed by these commentators, in addition to implicating women's Due Process right to privacy, some restrictions on abortion may constitute sex discrimination prohibited by the Equal Protection Clause.[23] In analyzing the impact of abortion restrictions on constitutional guarantees of gender equality, Justice Blackmun discussed the gender stereotypes underlying such restrictions:

> By restricting the right to terminate pregnancies, the State conscripts women's bodies into its service, forcing women to continue their pregnancies, suffer the pains of childbirth, and in most instances, provide years of maternal care. The State does not compensate women for their services; instead, it assumes that they owe this duty as a matter of course. This assumption—that women can simply be forced to accept the "natural" status and incidents of motherhood—appears to rest upon a conception of women's role that has triggered the protection of the Equal Protection Clause.

Casey, 505 U.S. at 928 (Blackmun, J., concurring in part and dissenting in part) (citing *Mississippi Univ. for Women v.*

[23] Nebraska's abortion ban also violates the Fourteenth Amendment's Citizenship Clause because it "abridge[s] the privileges or immunities of citizens of the United States . . . ." U.S. Const. amend. XIV, § 1. In *Saenz v. Roe*, 526 U.S. 489, 119 S. Ct. 1518 (1999), this Court breathed new life into that clause by finding that the right to travel was protected by an individual's "status as a citizen of the United States." 119 S. Ct. at 1526. Looking at the right to travel as the model of the rights guaranteed by the Citizenship Clause, the clause must at a minimum protect "the basic right that genuine citizenship presupposes—the right to individual self-government . . . ." Laurence H. Tribe, *Comment:* Saenz *Sans Prophecy: Does the Privileges or Immunities Revival Portend the Future – or Reveal the Structure of the Present?*, 113 Harv. L. Rev. 110, 183 (1999). As described by the Court in *Casey*, restrictions on abortion such as Nebraska's infringe upon just that right: "The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives." *Casey*, 505 U.S. at 586.

Hogan, 458 U.S. 718 (1982), and *Craig v. Boren*, 429 U.S. 190 (1976)).[24]

Indeed, in an evolving line of cases, this Court has refused to permit states to use "the common-law understanding of a woman's role within the family," *Casey*, 505 U.S. at 897, as the justification for unequal treatment:

> There was a time, not so long ago, when a different understanding of the family and of the Constitution prevailed. . . . Only one generation has passed since this Court observed that "woman is still regarded as the center of home and family life," with attendant "special responsibilities" that precluded full and independent legal status under the Constitution. These views, of course, are no longer consistent with our understanding of the family, the individual, or the Constitution.

Id. at 896-97 (citing *Hoyt v. Florida*, 368 U.S. 57, 62 (1961)). Out of respect for the enormous sacrifices motherhood demands, the *Casey* Court specifically rejected using abortion restrictions to enforce sex-role stereotypes:

> Her suffering is too intimate and personal for the State to insist, without more, upon its own vision of the woman's

[24] This Court's jurisprudence does not foreclose an Equal Protection analysis of abortion restrictions. *See Jane L. v. Bangerter*, 61 F.3d 1505, 1517 n.11 (10th Cir. 1995) (in context of challenge to restrictive abortion statute, finding that *Geduldig v. Aiello*, 417 U.S. 484 (1974), and *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993), are "distinguishable" and "do not preclude the development of an abortion jurisprudence rooted in the Equal Protection Clause"), *rev'd on other grounds*, *Leavitt v. Jane L.*, 518 U.S. 137 (1996); *see also* Deborah A. Ellis, *Re-Examining Gender Scrutiny: A Symposium Discussion: Protecting "Pregnant Persons": Women's Equality and Reproductive Freedom*, 6 Seton Hall Const. L.J. 967, 969-72 (1996) (criticizing *Geduldig* and arguing that *Bray*'s dissenters offer better view of *Geduldig*'s narrow holding); Paula Abrams, *The Tradition of Reproduction*, 37 Ariz. L. Rev. 453, 495-97 (1995) (arguing that *Geduldig* reinforced cultural stereotypes defining women by their reproductive function); Sylvia A. Law, *Rethinking Sex and the Constitution*, 132 U. Pa. L. Rev. 955, 983 n.107 (1984) (collecting scholarly criticism of approach and result of *Geduldig*).

> role, however dominant that vision has been in the course of our history and our culture. The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society.

Id. at 852; *cf. UAW v. Johnson Controls, Inc.*, 499 U.S. 187, 211 (1991) ("It is no more appropriate for the Courts than it is for individual employers to decide whether a woman's reproductive role is more important to herself and her family than her economic role.").

Far from justifying restrictions on women's liberty, legislative efforts to require conformity with sex-role stereotypes have been repeatedly rejected by this Court. *See, e.g.*, *Miller v. Albright*, 523 U.S. 420, 443 (1998) (assuming for purpose of analysis that if the classification "were merely the product of an outmoded stereotype, it would be invalid"); *id.* at 452 (O'Connor, J., concurring) (stating that gender classifications based on stereotypes are unlikely to survive heightened scrutiny); *id.* at 472 (Breyer, J., dissenting) (noting that majority of Court agrees that gender classifications based on stereotypes are unlikely to survive heightened scrutiny); *Hogan*, 458 U.S. at 25-26 (invalidating policy reflecting "archaic and stereotypic notions" of the "proper roles of men and women"); *Stanton v. Stanton*, 421 U.S. 7, 14-15 (1975) (invalidating statute because of its assumption that women are "destined solely for the home and the rearing of the family, and only [men] for the marketplace and the world of ideas"); *see also* David H. Gans, *Notes: Stereotyping and Difference:* Planned Parenthood v. Casey *and the Future of Sex Discrimination Law*, 104 Yale L.J. 1875 (1995) (discussing the role of stereotypes in Supreme Court gender equality jurisprudence).

It is plain that no legitimate governmental objectives are advanced by the inequality perpetrated by the Nebraska procedure ban. Unless Nebraska concedes that its ban prevents some women from obtaining abortions altogether, it cannot claim that the statute protects fetal life.[25] As Chief

[25] As Chief Judge Posner noted, "[i]f any fetal lives are saved by these statutes, it will only be by scaring physicians away from performing

Judge Posner wrote about comparable statutes in Wisconsin and Illinois:

> These statutes, remember, are not concerned with saving fetuses, with protecting fetuses from a particularly cruel death, with protecting the health of women, [or] with protecting viable fetuses. . . . They are concerned with making a statement in an ongoing war for public opinion, though an incidental effect may be to discourage some late-term abortions. The statement is that fetal life is more valuable than women's health.

Hope Clinic v. Doyle, 195 F.3d 857, 880-81 (7th Cir. 1999) (Posner, C.J., dissenting), *petition for cert. filed*, U.S.L.W. daily ed. Jan. 20, 2000 (U.S. Jan. 10, 2000) (No. 99-1152). In fact, the statute's true purpose is to advance an impermissible state interest of expressing hostility to legal abortion generally and to most second-trimester abortions specifically. *See* Brief *Amici Curiae* of the National Abortion and Reproductive Rights Action League et al. at Part II. Such a state purpose, "designed to strike at the right itself," *Casey*, 505 U.S. at 874, cannot justify restrictions on women's abortion rights. *See id.* at 876 (citing *Roe*, 410 U.S. at 162).

Comparing Nebraska's ban to Pennsylvania's informed consent law is instructive. In *Casey*, the joint opinion recognized that a state may "express[] a preference for childbirth over abortion." *Id.* at 883. If in fact the Nebraska statute can be said to "express[] a preference for childbirth over abortion," it does so not by informing women that it disapproves of their choices, but by actually interfering in the exercise of their protected rights. In contrast, the preference expressed in the Pennsylvania informed consent provision at issue in *Casey* was upheld because, based on the limited record before it, the Court deemed it to "further [the state's]

any [] abortions . . . ." *Hope Clinic*, 195 F.3d at 878 (Posner, C.J., dissenting).

legitimate goal of protecting the life of the unborn by . . . ensuring a decision that is mature and informed." *Id.*[26]

The Nebraska abortion procedure ban furthers no such goal. To require women to sacrifice their health and equality for what is at best a purely symbolic state interest in "show[ing] concern for the life of the unborn," *see* Br. Pet'rs at 48, and at worst a purposeful attempt to frustrate women's exercise of their constitutional rights flies in the face of settled law holding women's health and autonomy inviolate: "[I]f a statute burdens constitutional rights and all that can be said on its behalf is that it is the vehicle that legislators have chosen for expressing their hostility to those rights, the burden is undue." *Hope Clinic*, 195 F.3d at 881 (Posner, C.J., dissenting).

III. NO STATE INTEREST IN FETAL PROTECTION AND NO THEORY OF INDEPENDENT FETAL RIGHTS JUSTIFIES THE HARM INFLICTED ON WOMEN BY THE NEBRASKA ABORTION PROCEDURE BAN.

In the past, despite the constitutional and statutory protections that should have prevented such abuses, women's liberty has frequently been constricted to protect perceived fetal interests. This Court has recognized, for example, that "[c]oncern for women's existing or potential offspring historically has been the excuse for denying women equal employment opportunity." *Johnson Controls,* 499 U.S. at 211 (invalidating under Title VII a "fetal protection" policy banning all potentially fertile women, not just pregnant

[26] Because *Casey* involved a facial challenge to the Pennsylvania Abortion Control Act, the Court left open the possibility that this and the other restrictions would, on a different record, be invalidated should they prove unduly burdensome to women's abortion right. *See Casey*, 505 U.S. at 888 (upholding waiting period "on the record before [the Court]"); *id.* at 926 (Blackmun, J., concurring in part and dissenting in part) ("the joint opinion has not ruled out the possibility that these regulations may be shown to impose an unconstitutional burden"); *id.* at 992 (Scalia, J., concurring in part and dissenting in part) (undue burden standard "may ultimately require the invalidation of each provision upheld today").

women, from well-paying jobs that exposed them to toxic substances); *see also Goesaert v. Cleary*, 354 U.S. 464 (1948) (prohibiting women from bartending); *Muller v. Oregon*, 208 U.S. 412 (1908) (upholding maximum work-hour restrictions for women only).[27]

That concern also has led courts in a different context to force women to undergo unwanted surgery for the purported benefit of their fetuses. *See, e.g., In re A.C.,* 533 A.2d 611 (1987) (ordering cesarean section, over woman's objection, even though the surgery hastened her death from cancer), *vacated and remanded*, 573 A.2d 1235 (D.C. 1990); *Jefferson v. Griffin Spaulding County Hosp. Auth.*, 247 S.E.2d 457 (Ga. 1981) (overriding pregnant woman's decision and ordering involuntary cesarean); *see also* Veronika Kolder et al., *Court-Ordered Obstetrical Interventions*, 316 New Eng. J. Med. 1192 (1987) (citing courts in eleven states that have ordered women to submit to unwanted cesarean surgery). In addition, states have used their civil child abuse and criminal justice systems to intrude deeply into women's decisionmaking during pregnancy. *See, e.g., In re Valerie D.,* 613 A.2d 748 (Conn. 1992) (invalidating application of civil child abuse statute to pregnant woman's drug use invalidated); *People v. Stewart,* No. M508197 (San Diego Cal., Mun. Ct. Feb. 23, 1987) (involving criminal prosecution of pregnant woman based in part on failure to obtain timely obstetrical care); *Whitner v. South Carolina*, 492 S.E.2d 777 (S.C. 1997) (allowing prosecution of pregnant women for child abuse under state law), *cert. denied*, 118 S. Ct. 1857 (1998); *Ferguson v. City of Charleston*, 186 F.3d 469 (4th Cir. 1999) (restricting pregnant women's Fourth Amendment rights under guise of fetal protection), *cert. granted*, 68 U.S.L.W. 3550 (U.S. Feb. 28, 2000) (No. 99-936); Lynn M. Paltrow, *Pregnant Drug*

[27] As recently as 1968, thirty-eight states limited women's work hours and prohibited overtime with its attendant higher rate of pay; eighteen states barred women from night work; and twenty-six states excluded women from some occupations entirely, such as mining and bartending. Ann E. Freedman, *Sex Equality, Sex Difference and the Supreme Court,* 92 Yale L.J. 913, 920 n.27 (1983).

Users, Fetal Persons, and the Threat to Roe v. Wade, 62 Alb. L. Rev. 999 (1999) (discussing prosecution of pregnant women for child abuse).

If the Court upholds the Nebraska ban and permits states to advance their purported concern for fetuses by restricting pregnant women's access to safe abortion procedures, states would be emboldened to invade virtually any personal decision made by a woman that affects her pregnancy. Indeed, in invalidating a husband-notification provision of Pennsylvania's abortion law, the *Casey* Court discussed the ramifications of permitting an interest in the potential life of the fetus, in that case the husband's interest, to outweigh a woman's liberty:

> Perhaps next in line would be a statute requiring pregnant married women to notify their husbands before engaging in conduct causing risks to the fetus. After all, if the husband's interest in the fetus' safety is a sufficient predicate for state regulation, the State could reasonably conclude that pregnant wives should notify their husbands before drinking alcohol or smoking . . . before using contraceptives or before undergoing any type of surgery that may have complications affecting the husband's interest in his wife's reproductive organs. . . . A state may not give to a man the kind of dominion over his wife that parents exercise over their children.

Casey, 505 U.S. at 898.

Similarly, here, a decision upholding the Nebraska ban could encourage states to deny women necessary medical treatment if that treatment might threaten fetal development. States might prohibit any number of activities or conditions during pregnancy, *e.g.*, failing to maintain appropriate weight, not exercising in moderation, not having a nutritious diet, failing to "stay off her feet," smoking, drinking alcohol, ingesting caffeine, suffering physical harm, taking various prescription drugs, or failing to get adequate prenatal care or

strictly follow physicians' advice.[28] Under the guise of fetal rights,

> [because] anything which a pregnant woman does or does not do may have an impact, either positive or negative, on her developing fetus, any act or omission on her part could render her liable to her subsequently born child. . . . Any action which negatively impacted on fetal development would be a breach of the pregnant woman's duty to her developing fetus. Mother and child would be legal adversaries from the moment of conception until birth.

Stallman v. Youngquist, 531 N.E.2d 355, 359 (Ill. 1988). Such minute state oversight of pregnant women's actions would give the state the kind of dominion over a woman that this Court has refused to confer on her husband. *See Casey*, 505 U.S. at 898.

The pernicious effect that the Nebraska ban will have on women's legal status is predictable in light of the theories out of which the legislation developed. *See, e.g.*, James Bopp, Jr. & Curtis R. Cook, *Partial-Birth Abortion: The Final Frontier of Abortion Jurisprudence*, 14 Issues L. & Med. 3 (1998) (setting forth theory that *Roe* and *Casey* do not apply to bans such as Nebraska's). Although this Court properly chose to deny *certiorari* on this question, several of the *amici* writing in support of Nebraska contend that *Roe* and *Casey* do not control this case because they addressed "unborn"

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[28] *See, e.g.*, L.C. Castro et al., *Maternal Tobacco Use and Substance Abuse: Reported Prevalence Rates and Associations With the Delivery of Small for Gestational Age Neonates*, 81 Obstetrics & Gynecology 396 (1993) (discussing effect of smoking on fetal development); L.P. Finnegan & S.R. Kandall, *Maternal and Neonatal Effects of Alcohol and Drugs, in Substance Abuse, A Comprehensive Textbook* 513, 529 (J.H. Lowinson et al. eds., 1997) (discussing prenatal effects of alcohol); *Merck Manual of Diagnosis and Therapy* 1859-61 (R. Berkow ed., 16th ed. 1992) (discussing prenatal effects of thyroid medications, antihypertensive drugs, and aspirin); C. Chazotte et al., *Cocaine Use During Pregnancy and Low Birth Weight: The Impact of Prenatal Care and Drug Treatment*, 19 Seminars in Perinatology 293 (1995) (discussing value of prenatal care for pregnancy).

children, not the "partially born." *See, e.g.*, Brief of *Amici Curiae* U.S. Rep. Charles T. Canady et al. at 20-21 [hereinafter Br. Rep. Canady]; Brief *Amicus Curiae* of the United States Catholic Conference et al. at 8-15. Nebraska likewise makes this distinction in passing in its main brief, *see* Br. Pet'rs at 49, and more fully in its petition for *certiorari*. Pet. Cert. at 12-16. The distinction, according to Petitioners and their *amici*, is that the nonviable fetus acquires "locational" rights by virtue of its extraction from the uterus and its "partial birth." *See, e.g.*, Br. Rep. Canady, *supra*, at 24 ("[I]t is on the basis of the child's change in *location* that governments may assert a distinct compelling interest in protection of human life in the process of birth."); Br. Pet'rs at 49.

Neither Nebraska nor its *amici* can escape application of *Roe* and *Casey* through a semantic re-casting of this Court's precedent that evokes images of full-term pregnancy and viability. Through either a D&E or a D&X procedure, in no sense and in no part is a viable life "born." *See* Br. ACOG, *supra*, at Part I.A. n.19 (distinguishing "birth" and "abortion"). The Nebraska statute itself makes this clear by acknowledging that the fetus remains "unborn" during the process: "Partial-birth abortion means an abortion procedure in which the person performing the abortion partially delivers vaginally a living *unborn* child . . . ." Neb. Rev. Stat. § 28-326(9) (emphasis added).

Properly framed, the legal question is whether a statute banning safe methods by which a woman's constitutional right to terminate a pre-viability pregnancy is realized places a substantial obstacle in the path of the exercise of that right. This issue falls squarely within the interpretive framework of *Casey* and *Roe* and does not present a novel question of fetal rights. As Justice Stevens noted,

> [t]he Court in *Roe* carefully considered, and rejected, the State's argument "that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment." . . . From this holding, there was no dissent; indeed, no Member of the Court has ever questioned this fundamental proposition.

Casey, 505 U.S. at 913 (Stevens, J., concurring in part, dissenting in part) (quoting *Roe*, 410 U.S. at 156).

The argument of Nebraska and its *amici* amounts to this: a woman's right to privacy extends to the uterus but not the passage from the uterus. Thus, Nebraska and its *amici* would use this case as an opportunity to accord nonviable fetuses a new set of rights, attaching in the course of the woman's exercise of her constitutional right to abortion, that displace the woman's. In essence, by exercising her right to choose abortion, the woman loses rights as the fetus gains them. There is perhaps no quicker way to eviscerate the right to terminate a pregnancy than to give fetuses rights that arise by virtue of the termination.

The "locational" rights theory has grave ramifications for women's health as well. Banning abortion procedures involving extraction of the fetus through the woman's vagina will leave only methods involving invasive abdominal surgery (such as hysterectomies and hysterotomies) or possibly labor induction (such as saline or prostaglandin instillation), all of which are rare, medically riskier, and substantially more painful than the banned procedures. *See* Br. ACOG, *supra*, at Facts 2 (describing different abortion procedures). Such a price to terminate a pregnancy is unconstitutionally steep. *See Danforth*, 428 U.S. at 78-79.

As is evident from the devastating consequences that flow from it, the "locational" fetal rights theory is at its root profoundly degrading to women. The notion that a uterus is private whereas the adjacent vaginal canal is not may only be credited by ignoring that these body parts belong to a whole woman, whose privacy rights protect all of her. Nothing in constitutional jurisprudence establishing the framework of individual rights and competing state interests suggests that women can be fragmented into certain body parts that are imbued with rights and certain others that the state may invade to serve its interests. The locational rights theory ignores the fact that it is the individual whole woman who possesses constitutional rights, not her separate body parts.

Such a fragmentation of constitutional rights within a woman's body is an idea profoundly at odds with constitutional precedent and basic human dignity and equality.

CONCLUSION

For all the foregoing reasons as well as those contained in the Brief for Respondents, *amici curiae* respectfully request that this Court affirm the judgment of the United States Court of Appeals for the Eighth Circuit.

Respectfully submitted,

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Dated: March 29, 2000

APPENDIX
INDIVIDUAL STATEMENTS OF INTEREST OF *AMICI CURIAE*

ABORTION ACCESS PROJECT

The Abortion Access Project is an organization of activists and health care providers seeking to increase awareness of abortion as a critical part of comprehensive reproductive health services, address the shortage of abortion providers, and ensure access to abortion for all women.

ACCESS PROJECT

The Access Project is dedicated to expanding women's access to reproductive choice by integrating early abortion into primary medical care. The Project trains primary care physicians and other health care providers in medical abortions and Manual Vacuum Aspiration and works to remove economic and bureaucratic obstacles to providing early abortions in primary care settings.

ALAN GUTTMACHER INSTITUTE

The Alan Guttmacher Institute (AGI) is an independent, nonprofit corporation that provides research, policy analysis, and education in reproductive health. AGI's mission is to protect and expand the reproductive choices of all women and men in freedom and dignity. AGI supports laws and policies that enable individuals everywhere to have access to the information and services they need to exercise their rights and responsibilities concerning sexual activity, reproduction, and family formation.

ALLEGHENY REPRODUCTIVE HEALTH CENTER

The Allegheny Reproductive Health Center has been providing quality reproductive health care in Pennsylvania since 1975. Over 4,000 women and men visit the clinic annually for medical services, counseling, and education.

ALLENTOWN WOMEN'S CENTER

The Allentown Women's Center, founded in 1978, is the largest first-trimester abortion provider located in Northeastern Pennsylvania. The Allentown Women's Center is committed to maintaining the highest standards of the medical field while providing medical care and emotional support to women coping with problem pregnancies. The Allentown Women's Center values advocacy as highly as the delivery of abortion services and is committed to women freely and knowingly making decisions regarding their bodies.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

For over a century, the American Association of University Women (AAUW), an organization of 150,000 members, has been a catalyst for the advancement of women. In more than 1,500 communities across the country, AAUW members work to promote education and equity for all women and girls, lifelong learning, and positive societal change. AAUW plays a major role in activating advocates nationwide on AAUW's priority issues, including gender equity in education, reproductive choice, social security, and workplace and civil rights issues.

AMERICAN JEWISH CONGRESS

The American Jewish Congress, an organization of American Jews founded in 1918, is dedicated to the protection of the civil liberties and civil rights of Jews and all Americans and the promotion of the principles of constitutional democracy. The American Jewish Congress believes that, in the face of the great moral and religious diversity in American society over abortion and in the light of Jewish traditions which in some cases command abortion and in many others, permit it, the existing constitutional

rules, set down in *Roe v. Wade*, should be maintained so that the different traditions may advocate their respective views and the decision left to the individual woman, answering to God and to her conscience.

AMERICANS FOR DEMOCRATIC ACTION

Americans for Democratic Action, Inc. (ADA) is an independent liberal political organization, founded in 1947, dedicated to promoting individual liberty and economic justice. ADA publishes a weekly legislative newsletter for liberal activists, a quarterly newsletter, special reports, including an annual voting record report that ranks Members of Congress based on a full spectrum of domestic and international policy issues. ADA also engages in independent campaign activity in support of Presidential candidates.

ASIANS AND PACIFIC ISLANDERS FOR REPRODUCTIVE HEALTH

Asians and Pacific Islanders for Reproductive Health (APIRH) is dedicated to improving the reproductive health and freedom of Asians and Pacific Islanders nationally, including insuring access to a full range of reproductive health services. Through education, advocacy, community-based research, and community organizing, APIRH has worked for the reproductive health and freedom of its communities since 1989.

BAR ASSOCIATION OF SAN FRANCISCO

The Bar Association of San Francisco (BASF) is the second-largest voluntary bar association in California, numbering over 9,500 members. BASF has a long and distinguished tradition of commitment to equality of opportunity, irrespective of income, for racial and ethnic

minorities, women, gay men and lesbians, people with disabilities, and others who have historically been the victims of discrimination. As an integral component of that commitment, the Association has historically stood in strong support of the Constitutional right of a woman to choose whether or not to have an abortion and has deemed governmental intrusion impermissible.

BOSTON WOMEN'S HEALTH BOOK COLLECTIVE

The Boston Women's Health Book Collective (BWHBC), authors of *Our Bodies, Ourselves For the New Century*, has worked for the past thirty years to empower all women with knowledge of their bodies, health, and sexuality.

CALIFORNIA WOMEN'S LAW CENTER

The California Women's Law Center (CWLC) is a private, nonprofit public interest law center specializing in the civil rights of women and girls. CWLC, established in 1989, works in the following priority areas: sex discrimination in education and employment, women's health and reproductive rights, family law, violence against women, and child care. Since its inception, CWLC has worked to ensure that women have full and complete access to all reproductive health services including abortion.

CENTER FOR CONSTITUTIONAL RIGHTS

The Center for Constitutional Rights (CCR) is a national, nonprofit legal, educational, and advocacy organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966, CCR undertakes litigation on behalf of women seeking to vindicate their civil rights, engages in advocacy on behalf of women and women's rights organizations on a wide range of issues,

and assists in the development of legislative policy at the municipal, state and federal levels of government. For more than twenty years, CCR has engaged in targeted litigation and educational outreach in an effort to maintain and bolster women's fundamental right to reproductive choice.

CENTER FOR POLICY ALTERNATIVES

The Center for Policy Alternatives (CPA) is a leading policy and research institute working with progressive leaders for positive change across the fifty states. CPA has long recognized that women's ability to make informed reproductive choices is critical to their health and economic well-being. This is especially true for women of color and low-income women, who too often bear the brunt of anti-choice restrictions. CPA supports women's reproductive choice by sharing proactive solutions and building networks of progressive leaders across the states.

CENTER FOR WOMEN POLICY STUDIES

The Center for Women Policy Studies is an independent, national, multiethnic, and multicultural feminist policy research and advocacy institution founded in 1972. The Center represents the interests of low-income women with HIV/AIDS and with substance abuse problems–who struggle to secure funds and find low-cost providers for reproductive health care and abortion services–and who will be detrimentally impacted by abortion bans such as the Nebraska statute.

CHICAGO ABORTION FUND

The Chicago Abortion Fund (CAF) fights to overturn economic barriers to reproductive choice. Through direct service and education/advocacy, CAF assists low-income women in obtaining safe abortion services by providing

clinic referrals, negotiated discounts, and financial assistance. Although unable to assist directly all the women in need, CAF works to extend choice to all low-income women by making the issue of economic access a priority on the agenda of policy makers.

CHOICE

CHOICE, founded in 1971, is a nonprofit advocacy organization dedicated to increasing access to quality medical care, to cultivating health awareness in the community, and to facilitating linkages between the public and vital social services. Nearly 36,000 consumers turn to CHOICE annually for reliable information on family planning, pregnancy options, sexually transmitted infections, and HIV/AIDS. CHOICE's highly trained staff also offer sensitive short-term counseling in crisis situations, advocate on behalf of individual consumers with providers, and educate the larger community through its community health education curriculum.

CHOICE USA

Choice USA was founded in 1992 to protect and advance reproductive freedom as a universal human right. Choice USA believes that every woman has the right to make her own decisions about contraception, abortion, and childbearing in accord with her own conscience and without government interference. Choice USA educates the public about reproductive choice issues, identifies and trains young pro-choice leaders, and supports grassroots activists in their efforts to secure reproductive freedom.

CLARA BELL DUVALL EDUCATION FUND

The Clara Bell Duvall Education Fund was created in 1979 to honor Clara Bell Duvall who died in 1929 from

complications of a self-induced abortion and left behind a widower and five young children. The Fund provides education and advocacy about the need for the full range of reproductive health options, including abortion for women of all ages, races, and income levels. The story of Clara Bell Duvall serves as a poignant reminder of the tragic consequences of illegal or inaccessible reproductive health services.

COALITION OF LABOR UNION WOMEN

The Coalition of Labor Union Women (CLUW) represents more than 25,000 working women in professions and industries throughout the United States and Canada. For more than twenty-five years, CLUW has advocated to strengthen women's ability to influence their own destinies. CLUW's Center for Education and Research engages in specific educational and advocacy programs addressing the importance of reproductive choice, particularly for women in low-wage jobs or living in poverty. CLUW has more than seventy-five chapters in cities and states around the nation and is a constituency group affiliated with the AFL-CIO.

COLORADO COALITION AGAINST DOMESTIC VIOLENCE

The Colorado Coalition Against Domestic Violence (CCADV) is a statewide, membership-driven, nonprofit organization dedicated to the elimination of domestic violence in all its forms through community education and networking. CCADV recognizes that the extent to which women can control their reproductive capacities is a principal factor in determining the quality and character of their lives; this is especially true for women in abusive relationships. CCADV has been working for over twenty years to eliminate intimate violence in women's lives in Colorado.

CONNECTICUT WOMEN'S EDUCATION AND LEGAL FUND, INC.

The Connecticut Women's Education and Legal Fund, Inc. (CWEALF) is a statewide nonprofit organization dedicated to empowering women, girls and their families to achieve equal opportunities in their personal and professional lives. CWEALF was incorporated in 1973 and has over 1,000 members.

DC COALITION AGAINST DOMESTIC VIOLENCE

The DC Coalition Against Domestic Violence (DCCADV) works to end domestic violence in the District of Columbia through direct services, advocacy, public policy, training, and community outreach and education. DCCADV recognizes that it is absolutely imperative for women in abusive relationships to have full control over their reproductive choices in order to choose a violence-free life for themselves and their children. This need is especially compelling for poor women, who are disproportionately women of color.

DOMESTIC ABUSE PROJECT OF DELAWARE COUNTY, INC.

The Domestic Abuse Project of Delaware County, Inc., is an agency that serves victims of domestic violence, many of whom are poor women and women of color. The Domestic Abuse Project recognizes that its clients would be impacted by restricting access to abortion.

ELIZABETH BLACKWELL HEALTH CENTER FOR WOMEN

The Elizabeth Blackwell Health Center for Women was founded in 1975 to provide feminist women's health services and women's health advocacy. The Center is committed to

providing high quality, accessible health services for all women in a setting that enables women to be active participants in their health care.

FAMILY PLANNING ASSOCIATION OF MAINE

Family Planning Association of Maine is a nonprofit organization that serves as the statewide Title X grantee responsible for assuring the provision of family planning services to 30,000 teens and low-income women through thirty clinical sites annually.

GEORGIANS FOR CHOICE

Georgians for Choice (GFC), a statewide pro-choice coalition, affirms that every woman must be free to make decisions about whether and when to have children. GFC supports public policies that acknowledge the moral capabilities of individuals, policies that provide accurate education about sexuality and reproduction, access to family planning services, and funding to enable all women to exercise their options. GFC opposes any public policy that creates undue hardships and bars access to reproductive health and education services. GFC believes that abortion can be a moral, ethical, and religiously responsible decision.

GREATER PHILADELPHIA WOMEN'S MEDICAL FUND

The Greater Philadelphia Women's Medical Fund (GPWMF) provides direct financial aid to help low-income women and girls in the Philadelphia metropolitan area who want to terminate a pregnancy but cannot because they do not have the money to pay for a safe, legal abortion. In 1999, GPWMF helped 830 women pay for abortions.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

The Hawaii State Coalition Against Domestic Violence (HSCADV) is a private, nonprofit statewide coalition of sixteen domestic violence programs working collaboratively to affect public policy and establish a coordinated and consistent response for the safety and protection of battered women. Its goals include public recognition of domestic violence as a pervasive societal problem detrimental to all members of society and the obliteration of racism, sexism, and homophobia which contribute to domestic violence.

HAWAII WOMEN LAWYERS

Hawaii Women Lawyers (HWL) is a nonprofit organization devoted to the advancement of the civil rights and social welfare of Hawaii's citizens, particularly its women and children. HWL is a specialty bar association that operates as an independent affiliate of the Hawaii State Bar Association. Its membership consists of over 200 lawyers licensed to practice in the State of Hawaii, together with auxiliary lay and unlicensed members. Throughout its twenty-three year history, HWL has been a strong supporter of the right to choose.

ILLINOIS CAUCUS FOR ADOLESCENT HEALTH

The Illinois Caucus for Adolescent Health, a statewide membership network, provides public education, policy advocacy, training, and technical assistance on issues related to the health and well-being of adolescents, particularly teenage parents and their families. For over twenty-two years, the Caucus has recognized that in order to have choices about their future, all women must have the choice to make informed decisions about their reproduction, including the right to bring up healthy children, the right to adoption,

and the right to safe, affordable birth control and abortion services.

ILLINOIS COALITION AGAINST SEXUAL ASSAULT

The Illinois Coalition Against Sexual Assault (ICASA) is a nonprofit organization consisting of thirty-one community-based sexual assault centers in Illinois. Founded in 1977, the purpose of ICASA is to end sexual violence and to alleviate the suffering of its victims. ICASA centers counsel victims, advocate for victims in the medical and criminal justice systems, present educational programs, and provide information and referral services. One of ICASA's goals is to insure that victims of sexual violence are free to make decisions about their reproductive and mental health.

IOWA COALITION AGAINST SEXUAL ASSAULT

The Iowa Coalition Against Sexual Assault (ICASA) is a statewide coalition whose members provide a wide range of services to sexual assault survivors. ICASA envisions a world free of sexual violence in which each individual is respected and valued. Accordingly, ICASA strongly supports reproductive freedom.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

The League of Women Voters of the United States, founded in 1920, is a nonpartisan, community-based political organization that encourages the informed and active participation of citizens in government and influences public policy through education and advocacy. The League is organized in one thousand communities and in every state, with more than 120,000 members and supporters nationwide. Since its beginning, the League has fought to ensure that women can take their full and rightful place in American

society. Based on the concurrence of its members, the League took a position in 1983 in favor of protecting the constitutional right of privacy of the individual to make reproductive choices.

LOUISIANA COALITION AGAINST DOMESTIC VIOLENCE

The Louisiana Coalition Against Domestic Violence (LCADV) is a nonprofit coalition of all domestic violence programs throughout the state of Louisiana. Incorporated since in 1982, its primary mission is to work to end violence against women and children in their homes and by intimates and acquaintances outside their homes.

MADRE

MADRE, a United States-based international women's human rights organization, has been working to defend the reproductive health and freedom of women around the world since 1983. Our 23,000 members in the United States and abroad support our understanding that any restriction on women's access to safe and legal abortion will be devastating to women's equality, health, and freedom. MADRE supports all efforts to defend reproductive health and rights as women's human rights.

MEDICAL STUDENTS FOR CHOICE

Medical Students for Choice represents over 5,000 medical students and residents who are demanding a comprehensive medical education that includes abortion training. Medical Students for Choice works on a grassroots basis at medical schools and residency programs throughout North America, sponsors national and regional educational meetings, provides reproductive health clinical training externships, maintains a presence on the Internet, and

publishes a quarterly newsletter. Medical Students for Choice is committed to ensuring that medical practitioners are prepared to provide their patients with the full range of reproductive health care choices.

MICHIGAN JOURNAL OF GENDER AND LAW

The central mission of the Michigan Journal of Gender and Law is to create a feminist legal publication that will help expand and develop legal discourse beyond traditional boundaries. The Journal is dedicated to exploring how gender issues and related issues of race, class, sexual orientation, and culture affect the lives of women and men.

MICHIGAN PRO-CHOICE NETWORK

The Michigan Pro-Choice Network is a nonprofit membership organization, consisting of twenty grassroots groups and state chapters of national organizations whose mission is to preserve the fundamental right to comprehensive reproductive health care, including safe, legal abortion.

MONTANA REPRODUCTIVE RIGHTS COALITION

The Montana Reproductive Rights Coalition was founded in 1991 to reflect a diverse statewide commitment to reproductive freedom and choice. The Coalition and individual member groups have lobbied extensively in the Montana State Legislature the past two sessions to defeat abortion bans similar to the Nebraska statute. The Montana Reproductive Rights Coalition is committed to ensuring that all women have equal and comprehensive access to reproductive health care.

MS. FOUNDATION FOR WOMEN

The Ms. Foundation for Women is the only national multi-issue women's fund. The Foundation has long recognized that the extent to which women can control their reproductive capacities is a principal factor in determining the quality and character of their lives; this is especially true for poor women and women of color, who are often the first victims of anti-choice legislation. The Ms. Foundation for Women has been responding to attacks on reproductive freedom with a combination of grantmaking, technical assistance, and advocacy for more than twenty-five years.

NATIONAL ASSOCIATION OF WOMEN LAWYERS

The National Association of Women Lawyers (NAWL), a one-hundred-year-old bar association headquartered in Chicago, was the first and is the oldest national women's bar association in the United States. NAWL's members include individuals and professional associations. NAWL is committed to ensuring that all women have safe and unobstructed access to women's health providers, including reproductive health providers.

NATIONAL BLACK WOMEN'S HEALTH PROJECT

The National Black Women's Health Project (NBWHP) is the only organization dedicated to the health and well-being of African-American women. NBWHP supports the right of all women, regardless of age, income, or education, to make decisions regarding whether, when, and under which conditions to bear children.

NATIONAL CENTER FOR LESBIAN RIGHTS

The National Center for Lesbian Rights (NCLR) is a national nonprofit legal organization dedicated to securing basic civil rights protections for lesbian women and their

families through impact litigation and public education. Since 1977, NCLR has litigated cases in more than thirty states on behalf of lesbians who have experienced discrimination in employment, housing, education, marriage, child custody, and other family law arenas. NCLR is committed to ensuring that lesbians and other women have reproductive choices and autonomy.

NATIONAL CENTER FOR THE PRO CHOICE MAJORITY

The National Center for the Pro Choice Majority is a nonprofit organization that provides a research and information service to the pro-choice movement. It publishes a national newsletter, The Pro Choice Report, about the strategies of the anti-choice movement to prevent women from exercising their constitutional right to make and carry out reproductive decisions.

NATIONAL CENTER FOR YOUTH LAW

The National Center for Youth Law (NCYL) is a nonprofit public interest law firm that has represented children, youth, and families for over twenty-five years. The health care rights of adolescents have been of special concern in our work. As counsel in *American Academy of Pediatrics vs. Lungren*, 16 Cal. 4th 307 (1997), the California Supreme Court case that struck down a state statute requiring parental consent before a minor could obtain an abortion, NCYL is acutely aware of how vulnerable young women are to statutes impeding access to abortion.

NATIONAL COUNCIL OF NEGRO WOMEN, INC.

The National Council of Negro Women, Inc. (NCNW) is a sixty-five-year-old volunteer membership organization. NCNW's purpose is to help African-American women

improve the quality of life for themselves, their families, and the community. The National Council of Negro Women has been responding to attacks on reproductive freedom with technical assistance and advocacy for a great many years.

NATIONAL FAMILY PLANNING AND REPRODUCTIVE HEALTH ASSOCIATION

The National Family Planning and Reproductive Health Association, an advocate for family planning and abortion providers and patients across the United States, has been dedicated to assuring universal access to voluntary, comprehensive, and culturally sensitive family planning and reproductive health care services since 1972.

NATIONAL LATINA HEALTH ORGANIZATION

The National Latina Health Organization (NLHO) works for bilingual access to quality health care through self-empowerment, educational programs, health advocacy, outreach, and developing public policy specifically aimed at Latinas. NLHO believes that women must have access to culturally respectful reproductive health care if they are to improve the quality of their lives.

NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

The National Latina Institute for Reproductive Health (NLIRH) was founded in 1994 to empower Latinas to make informed reproductive health decisions. Latinas comprise an increasing percentage of women of reproductive age (15-49) in the continental United States, and Latinos are quickly becoming the nation's largest minority population. NLIRH's areas of programmatic focus include coalition building, education, communication, public policy, and advocacy.

NATIONAL LAWYERS GUILD

The National Lawyers Guild was founded in 1937 and seeks to unite the lawyers, law students, legal workers, and jailhouse lawyers of America into an effective political and social force in the service of the people. The Guild is committed to preserving the right of all women to choose whether and when to have children and to be guaranteed the option of obtaining safe, legal abortions.

NATIONAL NETWORK OF ABORTION FUNDS

The National Network of Abortion Funds (NNAF), created in 1993, is an association of sixty-eight community-based abortion funds in the United States. In 1999, NNAF member funds helped approximately 10,000 women who would not have been able to obtain a safe, legal abortion with their own resources by loaning or granting them a combined total of over $1.2 million.

NATIONAL ORGANIZATION FOR WOMEN FOUNDATION, INC.

The National Organization for Women Foundation (NOW Foundation) is devoted to furthering women's rights through education and litigation. NOW Foundation is affiliated with the National Organization for Women, the largest feminist organization in the United States, with a contributing membership of over 500,000 women and men in more than 450 chapters in all 50 states and the District of Columbia. Since its inception in 1986, a major goal of NOW Foundation has been to ensure reproductive freedom for women, including safe, legal, and accessible abortion and birth control.

NOW LEGAL DEFENSE AND EDUCATION FUND

NOW Legal Defense and Education Fund (NOW LDEF) is a leading national nonprofit civil rights organization that performs a broad range of legal and educational services in support of women's efforts to combat gender-based discrimination and promote equal rights. A major goal of NOW LDEF's work is to secure reproductive rights for all women. To this end, NOW LDEF has litigated numerous cases involving clinic violence and efforts to protect safe access to reproductive health services.

NATIONAL SOCIETY OF GENETIC COUNSELORS

The National Society of Genetic Counselors (NSGC) is the leading voice, authority, and advocate for the genetic counseling profession. The mission of NSGC is to promote the genetic counseling profession as a recognized and integral part of health care delivery, education, research, and public policy. The NSGC publicly supports a woman's right to reproductive freedom, including her right to prenatal diagnosis and access to safe and legal abortion.

NATIONAL WOMEN'S POLITICAL CAUCUS

The National Women's Political Caucus (NWPC) is a national, multipartisan, grassroots membership organization dedicated to supporting pro-choice women candidates for elected and appointed office. All candidates who receive NWPC's endorsement believe that a woman's reproductive health should remain unfettered by parental notification requirements and abortion procedure bans.

NATIVE AMERICAN WOMEN'S HEALTH EDUCATION RESOURCE CENTER

The Native American Women's Health Education Resource Center (NAWHERC) works to improve the lives of

Indigenous women by addressing their health, environmental, educational, and cultural rights, locally, nationally, and internationally. The traditional beliefs of Indigenous women include the belief "that the business of women is determined by women for women." Since its founding over fifteen years ago, NAWHERC has supported reproductive rights.

NORTHEAST WOMEN'S CENTER

The Northeast Women's Center has been serving the Northeast Philadelphia area for twenty-five years, providing women with safe and legal abortions. The Center provides services to women of diverse backgrounds and enables them to avoid unsafe or illegal alternatives that could endanger their lives.

NORTHWEST WOMEN'S LAW CENTER

The Northwest Women's Law Center (NWLC) is a nonprofit public interest organization that works to advance the legal rights of all women through litigation, education, legislation, and the provision of legal information and referral services. Since its founding in 1978, the NWLC has been dedicated to protecting and expanding women's reproductive rights and has long focused on the threats to women's access to abortion providers. The NWLC continues to serve as a regional expert and leading advocate on reproductive freedom.

PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE, INC.

The Pennsylvania Coalition Against Domestic Violence, Inc. (PCADV) is a nonprofit organization incorporated in Pennsylvania for the purpose of providing services and advocacy on behalf of victims of domestic violence and their minor children. PCADV is a membership organization of

sixty-four shelters, hotlines, counseling programs, safe home networks, legal advocacy projects, and transitional housing projects for battered women and their dependent children in the Commonwealth. For nearly twenty-five years, PCADV has provided statewide and national training and technical assistance to domestic violence programs, attorneys, the courts, and law enforcement agencies of domestic violence.

POLICY INSTITUTE OF THE NATIONAL GAY AND LESBIAN TASK FORCE

The National Gay and Lesbian Task Force (NGLTF) was founded in 1973 and is dedicated to eliminating prejudice, violence and injustice against gay, lesbian, bisexual, and transgendered people at the local, state, and federal levels. The Policy Institute of NGLTF, founded in 1995 as a program of NGLTF, is a think tank dedicated to research, policy analysis, and strategic projects to advance the greater understanding and the equality of lesbian, gay, bisexual, and transgendered people.

PROCHOICE RESOURCE CENTER

The ProChoice Resource Center is an independent, nonpartisan, nonprofit organization that provides on-site training programs, extensive technical assistance, innovative publications, and other resources to the pro-choice grassroots. PCRC also serves as a clearinghouse of information about the grassroots for the reproductive rights community, policymakers, and the media.

REPUBLICAN PRO-CHOICE COALITION

The Republican Pro-Choice Coalition is a nonprofit organization dedicated to preserving the right to reproductive choice for all women. It is developing state chapters around the country to impact legislation at the state and federal

levels that protects abortion rights and encourages family planning efforts. The Coalition strives to promote the Republican philosophy of individual liberty and limited government and maintains that those principles should apply equally to women's personal decisions with regard to reproductive health.

SEXUALITY INFORMATION AND EDUCATION COUNCIL OF THE UNITED STATES

The Sexuality Information and Education Council of the United States (SIECUS) is a thirty-five-year-old nonprofit organization, dedicated to affirming that sexuality is a natural and healthy part of life. SIECUS believes that every woman, regardless of age or income, should have the right to obtain an abortion under safe, legal, confidential, and dignified conditions.

SOUTH CAROLINA COALITION AGAINST DOMESTIC VIOLENCE AND SEXUAL ASSAULT

The South Carolina Coalition Against Domestic Violence and Sexual Assault (SCCADVASA) is a strong voice for women's rights in South Carolina. SCCADVASA has responded to attacks on reproductive freedom for many years and supports the right of women to choose.

SOUTH DAKOTA COALITION AGAINST DOMESTIC VIOLENCE AND SEXUAL ASSAULT

The South Dakota Coalition Against Domestic Violence and Sexual Assault is a coalition of programs serving victims of domestic violence and their children. It is dedicated to the proposition that domestic violence is the result of oppression in all forms and that only the obliteration of oppression will bring an end to family violence. To that end, its work

includes empowering women to take control of every aspect of their lives, including their reproductive capabilities.

THIRD WAVE FOUNDATION

The Third Wave Foundation is the only national organization for young feminist activists between the ages of fifteen and thirty. Through a national network of members (5,000 strong), public education campaigns, and grantmaking, Third Wave informs and empowers this current feminist generation.

TRADESWOMEN OF PURPOSE/ WOMEN IN NON-TRADITIONAL WORK

Tradeswomen of Purpose/Women in Non-Traditional Work, Inc. (TOP/WIN) is a nonprofit organization whose focus for over fifteen years has been to increase the number of women entering and remaining in blue-collar non-traditional jobs. Since 1989, TOP/WIN has facilitated job training programs which have prepared and placed low-income women in a variety of non-traditional occupations that offer higher wages and true economic self-sufficiency.

VOTERS FOR CHOICE

Voters For Choice is the nation's largest independent, pro-choice political action committee. Voters For Choice supports safe, legal, and accessible abortion services for all women, regardless of geographic location, age, or economic status. In order to protect the fundamental right to choose, Voters For Choice works to elect pro-choice candidates to federal and state elective office.

WASHINGTON STATE COALITION AGAINST DOMESTIC VIOLENCE

The Washington State Coalition Against Domestic Violence is a membership organization that provides training, educational resources, and advocacy on behalf of victims of domestic violence. Its mission is to end domestic violence through advocacy and action for social change.

WIDER OPPORTUNITIES FOR WOMEN

Wider Opportunities for Women (WOW) is a national nonprofit employment organization with over three decades of experience helping women and girls achieve equality of opportunity in education and employment. WOW's mission is to help low-income women and their children achieve economic self-sufficiency and to move out of poverty. WOW supports women's reproductive freedom because unwanted pregnancy and childbirth fundamentally and negatively impact women's ability to attain economic independence.

WOMEN'S ASSOCIATION FOR WOMEN'S ALTERNATIVES

Women's Association for Women's Alternatives (WAWA) is a nonprofit agency providing residential, educational, vocational, and child rearing training to girls and women. Its goal is to allow girls and mothers to keep their families together and to lead full and productive lives by giving them the skills and education they need to succeed without unnecessary or prolonged public support. As an agency, WAWA believes that it is essential to preserve and protect all the reproductive rights and options that women require to live full and complete lives free from unwarranted government intrusion.

WOMEN'S LAW CENTER OF MARYLAND

The Women's Law Center of Maryland, Inc. (WLCMD), founded in 1971, is a nonprofit, public interest, membership organization of attorneys and community members that works to establish fair treatment for women and children. WLCMD has dedicated substantial effort to reforming family law and has been recognized for its innovative direct services and effective advocacy for families via its Kaufman Center for Family Law.

WOMEN'S LAW PROJECT

The Women's Law Project (WLP) is a nonprofit, feminist advocacy organization located in Philadelphia. Founded in 1974, WLP has frequently challenged restrictive abortion statutes on behalf of women's health care providers and the women they serve. WLP served as co-counsel for plaintiffs in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and *Thornburgh v. American College of Obstetricians & Gynecologists*, 476 U.S. 747 (1986).

WOMENS WAY

WOMENS WAY is the nation's oldest and largest women's funding federation. Since its inception in 1976, WOMENS WAY has recognized that the extent to which women can control their reproductive health is a critical factor in determining the quality and impact of their lives. As attacks on reproductive choice escalate in our clinics and statehouses, WOMENS WAY continues to defend reproductive freedom by raising funds and mobilizing community resources to enhance and improve the lives of more than 260,000 Delaware Valley women and families each year.